

6/11/20

TO: David Jensen

FROM: Massad Ayoob

SUBJECT: Opinions re: *McCarthy* suit

David, you requested my opinions as an expert in the field of firearms training and the defensive firearms industry as related to range availability and gun shops being open to the public. My opinions are as follows.

1. First, a brief background. My name is Massad Ayoob. My CV is attached but briefly, pertaining to the following: I have served as a law enforcement firearms instructor since 1972 and a trainer of law-abiding armed citizens since 1981. I spent 19 years as chair of the firearms/deadly force training committee of the American Society of Law Enforcement Trainers and 16 years on the advisory board of the International Law Enforcement Educators and Trainers Association. I have published extensively on firearms, self-defense, and use of force since 1971, including two authoritative texts in the field, "In the Gravest Extreme: the Role of the Firearm in Personal Protection" (Police Bookshelf, 1980) and "Deadly Force" (F-W Media, 2014). I have been handgun columnist for *Guns* magazine for more than forty years, and law enforcement columnist for *American Handgunner* magazine for a like period. I have also for many years written the personal defense issues column for *Shooting Industry*, a firearms industry trade journal, which requires me to visit gun shops around the nation and also "big box" stores which sell firearms and ammunition.

2. In addition, pertinent to the instant issue, I spent most of my life in the state of New Hampshire, frequently traveling to and through Massachusetts for shooting matches, and always made a point of visiting gun shops in that state.

3. I have been asked to provide my opinions in support of gun shops being allowed to remain open to sell firearms and particularly ammunition suitable for personal protection and

self-defense, and to explain why products available at WalMart and similar “big box” stores are not suitable for these purposes.

4. At this time WalMart does not sell handguns, handgun ammunition, or self-defense rifle ammunition. WalMart long since stopped selling handguns in every state but Alaska, and recently announced that they would not sell handguns even there any longer. As Justice Scalia wrote in the majority SCOTUS opinion in *Heller v. District of Columbia*, handguns are particularly suitable for home defense for several reasons. They allow a homeowner to hold a violent felon at gunpoint while calling 9-1-1 with their phone in the other hand. They leave a hand free to manipulate light switches, push innocent parties out of harm’s way, hold flashlights, etc. This is not realistically possible with a two-handed weapon such as a typical shotgun or hunting rifle.

5. The only ammunition available from WalMart that would fit a handgun is .22 rimfire, i.e., .22 Long Rifle or .22 Magnum. It is well established in law enforcement and private citizen self-defense that these small caliber cartridges lack the power to quickly stop violent acts of large, strong men. This is why no police department in the country has ever, to this writer’s knowledge, issued or even allowed .22 caliber handguns to be carried by their sworn officers as duty sidearms.

6. In most communities, the only local source of proper self-defense ammunition is the local gun shop, or a sporting goods store with a significant firearms and accessories inventory. The proper self-defense ammunition for handguns is almost universally recognized to be the expanding bullet type, such as the hollow point bullets issued by most police departments or the Critical Duty brand ammunition currently issued by the FBI for their 9mm service pistols.

The reasons for this, which apply equally to self-defense by law-abiding private citizens, are fourfold.

7. First, because the bullets expand into a mushroom shape (which is also a parachute shape), the wider bullet meets more resistance and is less likely to exit a violent offender's body with enough force to harm an innocent bystander behind him, unseen by the shooter due to lighting conditions, tunnel vision, or the body of the offender simply blocking their view. Thus, it is safer for innocent bystanders.

8. Second, the cookie-cutter shape of the nose of the hollow point bullet causes it to bite into hard surfaces it strikes on an angle of obliquity. This reduces the likelihood of ricochet that could endanger innocent parties. The hollow point bullet tends to either bury itself in what it hit, or shatter, or tumble in flight and quickly lose its power to injure or kill.

9. Third, historically the expanding handgun bullet has caused a faster incapacitation of violent offenders than round-nose or pointed bullets. The sooner the violent person is incapacitated, of course, the sooner he ceases to be a lethal danger to the lawful defender or other innocent parties.

10. Finally, because of that faster cessation of hostilities, the violent offender does not have to be shot as many times. All other things being equal, the fewer times he is shot the more likely it is that modern trauma medicine can save his life. Thus, this ammunition can be said to be literally less lethal to the offender himself, within the totality of the given circumstances.

11. This ammunition, and the handguns which fire it, cannot be found these days in WalMart. It is most likely to be found in local gun shops. This is one reason why the Department of Homeland Security has declared firearms and ammunition retailers to be Essential

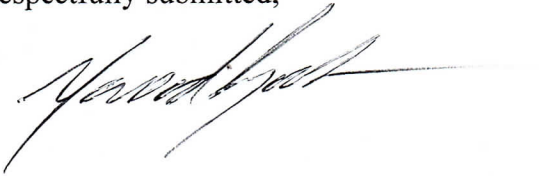
for safety and security and allowed to remain open during the shutdown, as is practiced in most states at this time during the Coronavirus shutdown.

12. As to the shutting down of firing ranges: this poses a distinct safety hazard. The societal “one-two punch” of the COVID-19 epidemic and the rioting following the death of George Floyd in Minneapolis led to a dramatic spike in purchase of guns and ammunition, *with a huge percentage of those purchasers being first-time gun owners*. Firearms are, by definition, potentially dangerous equipment; they are, after all, lethal weapons. Training and practice in their safe use is absolutely essential. While virtual safety training in the form of lectures and demonstrations may be available on the Internet, in my considered opinion that is not enough. No state would issue a driver’s license to someone who has never actually driven a motor vehicle, and safe handling of firearms mandates hands-on time with that equipment. One cannot learn to shoot without shooting. This, of course, requires access to a live-fire shooting range. While there are virtual simulators available, they are unaffordably expensive for most of the general public. Moreover, in my opinion they are insufficient for the purpose in any case because they do not provide the recoil (colloquially called “kick”) or the muzzle blast to which a competent and safe shooter must become accustomed in a controlled environment such as a shooting range. *The need for an accessible live fire venue is not limited to those first-time gun owners*. Armed professionals and sport shooters alike describe shooting as a “perishable skill,” and one which requires routine refresher and skill maintenance. This is why law enforcement agencies and armed security services mandate regular refresher training and shooting qualification in live fire. The ability to practice and maintain skills requires a live-fire training venue, such as a shooting range open to the public.

I affirm all of the foregoing statements under the penalty of perjury under the laws of the United States of America.

Finally, my standard expert witness fee is \$3,000 per day/\$375 per hour, plus expenses.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Massad Ayoob", with a long horizontal flourish extending to the right.

Massad Ayoob

Curriculum Vitae, **Massad F. Ayooob**

D.O.B. 7/20/48

Areas of Expertise: Dynamics of violent encounters, training standards for safe weapons handling (law enforcement/civilian), training standards of firearms and use of force (police/civilian), homicide/use of force investigation, personal and professional security, weapon retention/disarming, law enforcement internal investigation/discipline.

Teaching Experience:

Director, Massad Ayooob Group, 2009-present.

Director, Lethal Force Institute, 1981-2009.

Chair of firearms committee, American Society of Law Enforcement Trainers (ASLET), 1987-2007. Also served on Ethics Committee. Led annual Panel of Experts on firearms/deadly force issues at ASLET's international seminars.

Special Instructor, Chapman Academy, 1981-88.

International Instructor, PR-24 baton; has lectured several times at annual international seminar. Trains other instructors and trainers of instructors.

Advisory Board member, International Law Enforcement Educators' and Trainers' Association, has lectured there on investigation and management of police use of force cases since the organization's inception.

National Instructor, Weapon Retention & Disarming, National Law Enforcement Training Center. Trains other instructors and trainers of instructors. 1990-2009.

Assistant professor teaching weapons and chemical agents, Advanced Police Training Program of New Hampshire, 1974-77.

Co-instructor (w/former world pistol champion Ray Chapman) of Advanced Officer Survival Seminars through Police Marksman Assn., in the 1980s.

International Instructor, Persuader Mini-Baton, certified by Joe Truncale.

Instructor, Kubotan self-defense, certified by Soke Takayuki Kubota.

National Instructor, Telescoping baton, certified by CASCO.

Instructor, straight baton, certified by COPSTK.

Has taught on relevant topics for National, International, and Regional seminars of International Association of Law Enforcement Firearms Instructors; regional seminars for CLE credit on defending deadly force cases (NACDL, MA. CDL Assn); International Homicide Investigators' Seminar (investigation of officer-involved shootings and characteristics of self-defense shootings); McGill University School of Medicine (medico-legal aspects of gunshot and knife wounds); officer survival tactics (Ordnance Expo, Los Angeles; National Tactical Invitational; New England SWAT Seminar; DEA National Academy; Metro-Dade Police Academy; DEA/Miami).

Personal Training

Smith & Wesson Academy: Advanced Combat Shooting (1st in class), Instructor course; Instructor Update (twice); Officer Survival Course (1st in class); Weapon Retention instructor course; advanced revolver shooting course.

Glock: Glock Instructor Course; Glock Armorer Course.

Firearms Instructor Courses: National Rifle Association.

Ordnance Expo: Firearms and Ballistic Evidence; Officer Involved Shooting Investigation; Advanced Officer Involved Shooting Investigation; Officer Survival; Management of Barricaded Suspects.

International Police Academy: Defensive Tactics (Unarmed Combat and Restraint) Instructor Course, rated Master Instructor by sensei James Morell.

NYPD: "Hostage Negotiation for Supervisors", "Post Shooting Tactics", "House Clearing Techniques", "Off Duty Confrontation Tactics", "Summary of Violent Encounter Patterns", "Police Shotgun Program."

Advanced Homicide Investigator school, by Vern Geberth, NYPD Ret., author of "Practical Homicide Investigation."

International Homicide Investigators' Seminar (2 occasions)

Medical/Legal Death Investigation (Dade County Medical Examiner's Office)

AELE: "Police Civil Liability Seminar"

PPCT: Pressure Point Control Tactics, taught by Bruce Siddle.

Federal Law Enforcement Training Center: BOSS program including officer survival, intelligence briefings on outlaw bike gangs, booby traps, counter-ambush tactics, arrest techniques.

Escrima (stick- and knife-fighting), Grandmaster Remy Presas.

Knife/Counter-Knife courses: Master Paul Vunak, Hank Reinhardt, Sensei Jim Maloney, Michael de Bethencourt.

Has studied personally with world handgun champions Ray Chapman, Rob Leatham, Jerry Miculek, and Frank Garcia in advanced shooting programs.

Has studied special units and their training on-site, including but not limited to:

NYPD Firearms & Tactics Unit, Emergency Services Unit, Armed Robbery Stakeout Unit.

LAPD SWAT, Firearms Training Unit.

FBI Firearms Training Unit.

Metro-Dade Police Firearms/SWAT Training Unit

Illinois State Police Ordnance Section.

NH State Police SWAT, EVOC, Firearms Training.

Kentucky State Police, Firearms Training and SRT Training.

Arizona Highway Patrol Firearms Training.

London, England Metropolitan Police firearms training and special services unit (D.11, PT-17, SO-19).

Has reviewed or audited numerous other law enforcement firearms training programs.

Publication Credits

Books:

“Fundamentals of Modern Police Impact Weapons,” Charles C. Thomas, Publishers, 1978.

“In the Gravest Extreme: the Role of the Firearm in Personal Protection,” Police Bookshelf, 1979.

“Hit the White Part,” Police Bookshelf, 1982.

“The Truth About Self Protection,” Bantam, 1983.

“StressFire,” Police Bookshelf, 1984.

“StressFire II,” Advanced Combat Shotgun,” Police Bookshelf, 1992.

“The Semiautomatic Pistol in Police Service and Self Defense,” Police Bookshelf, 1988.

“Ayoob Files: the Book,” Police Bookshelf, 1995.

“Complete Book of Handguns,” Volume 10 (1993) with completely new volume produced annually through 2009, Harris Publications.

“Gun Digest Book of Combat Handgunnery, Fifth Edition,” Krause Publications, 2002.

“Gun Digest Book of SIG-Sauer Pistols,” Krause Publications, 2004.

“Gun Digest Book of Beretta Pistols,” Krause Publications, 2005.

“Gun Digest Book of Combat Handgunnery, Sixth Edition,” Krause Publications, 2007.

“Gun Digest Book of Concealed Carry,” Krause Publications, 2008.

“Massad Ayoob’s Greatest Handguns of the World,” Krause Publications, 2010.

“Combat Shooting With Massad Ayoob,” FW Media, 2011

“Massad Ayoob’s Greatest Handguns of the World, Volume II,” FW Media, 2012.

“Gun Digest Book of SIG-Sauer, Volume II,” FW Media, 2014.

“Gun Safety in the Home,” FW Media, 2014.

“Deadly Force: Understanding Your Right to Self-Defense,” FW Media, 2014.

“Armed Defense: What the Experts Want You to Know,” Gun Digest Publications, 2017.

Monographs:

“Gunproof Your Children,” Police Bookshelf/Potshot Press

“Handgun Primer,” Police Bookshelf/Potshot Press.

“The Police View of Gun Control,” Second Amendment Foundation.

“Armed and Alive,” Second Amendment Foundation.

Forewords for Authoritative Texts:

“Mu Tau: The Modern Greek Karate” by James Arvanitis

“Realistic Defensive Tactics” by John Peters

“Modern Centerfire Handguns” by Stanley Trzoniec

“You Can’t Miss” by John Shaw

“MasterTips” by Jon Winokur

“Effective Defense” by Gila May-Hayes

“In Self Defense” by Michael Izumi
“The Tactical Pistol” by David Lauck
“The Tactical Rifle” by David Lauck
“Personal Defense for Women” by Gila Hayes
“Lessons From Armed America” by Mark Walters and Kathy Jackson
“Armed Response” by Dave Kenik
“Rule the Night/Win the Fight” by Ed Santos
“Law of Self-Defense” by Attorney Andrew Branca
“Defend Yourself” by Rob Pincus
“The Newhall Shooting: a Tactical Analysis” by Michael Wood
“Surviving a Mass Killer Rampage” by Chris Bird
“Gun Digest Book of the Revolver” by Grant Cunningham

Periodicals

Handgun Editor, *Guns* magazine
Law Enforcement Editor, *American Handgunner* magazine
Contributing Editor, *Shooting Industry* magazine
Contributing Editor, *On Target* magazine
Firearms Editor, *Backwoods Home* magazine
Associate Editor, *Combat Handguns* magazine
Associate Editor, *Guns & Weapons for Law Enforcement* magazine
Associate Editor, *Gun Week*

Has published thousands of articles in various professional journals and newsstand periodicals, the overwhelming majority related to law enforcement, weaponry, martial arts and personal defense. Firearms articles have appeared in *Guns*, *American Handgunner*, *Handguns*, *GUNsport*, *Handgunner*, *Home Defense*, *Glock Annual*, *Colt Annual*, *Magnum*, *Gun World*, *Combat Handguns*, and others. Martial arts/unarmed combat articles have appeared in *Black Belt*, *Official Karate*, *Inside Kung-fu*, *Inside Karate*, *Warriors*, *Fighting Stars*, and other such publications. Law enforcement articles have been published in *American Police Beat*, *Law & Order*, *Police*, *Police Product News*, *Sentinel*, *Trooper*, *Patrolman*, *Police Marksman*, *Guardian*, *Guns & Weapons for Law Enforcement*, *Guns & Ammo Law Enforcement Annual*, and other police professional journals and law enforcement related periodicals. Has also been published in *Car & Driver*, *Gentlemen's Quarterly*, *Man's Magazine*, *Modern Jeweler*, *New Hampshire Outdoorsman*, *New Hampshire Times*, *Prism*, *Sexology*, *Sports Afield*, and assorted other general interest publications.

Training Films

“StressFire Handgun,” 2002
“StressFire Shotgun,” 2002
“StressFire Rifle,” 2002
“Deadly Force Cases,” ALI-ABA, 2001
“Judicious Use of Deadly Force,” 1990

“Post Violent Event Trauma,” 1990
“LFI Handgun Safety,” 1990
“Off Duty Survival,” 1993
“Shoot to Live,” 1986
“How Close is Too Close,” 1986
“Cute Lawyer Tricks,” 1986
“Physio-Psychological Aspects of Violent Encounters,” 1981
Has appeared in various other training films.

Quoted as authoritative reference in:

FBI Journal
“Law Enforcement Handgun Digest” (Grennell)
“Gun Digest Book of Combat Handgunnery, 1st edition (Lewis & Mitchell), 2nd and 3rd editions (Karwan)
“Shooting Schools: An Analysis” (Winter)
“Street Survival: Tactics for Armed Encounters,” (Adams, McTernan, Remsberg)
“Tactical Edge: Tactics for High Risk Patrol” (Remsberg)
“Handgun Retention System” (Lindell)
“The Street Smart Gun Book” (Farnam)
“Police Handgun Manual” (Clede)
“Police Shotgun Manual” (Clede)
“High Tech SWAT Weapons” (Bane)
“PR-24 Baton Manual” (Starrett)
“Police Officers Guide” (Clede)

Cited as authoritative reference in numerous other publications.

Career Accomplishments

Voted Outstanding American Handgunner of the Year, 1998.

Winner of first annual National Tactical Advocate Award, 1995, awarded by American Tactical Shooting Association.

Winner of the Roy Rogers Award for promotion of firearms safety.

Winner of first George C. Nonte Award for excellence in firearms journalism, 1978.

Firearms Qualifications and Awards

Combat Master, NRA Police Revolver

First 5-gun Master, International Defensive Pistol Association

Master, Revolver, National Marksman Sports Society

Master, Automatic, National Marksman Sports Society

Class A, International Practical Shooting Confederation

Grand Mastershot, UK Practical Shooting Association

Master Blaster, Second Chance

Expert, NRA Action Shooting

Honorary Distinguished Expert, Federal Law Enforcement Training Center

Several times top shooter in statewide NH police combat matches, 1973-2003

Five times New England Regional champion in various handgun disciplines

Co-winner with daughter Justine, National Champion Parent/Child Team, National Junior Handgun Championships, 1998

Has won numerous individual/local combat shooting tournaments, has completed successfully in five countries.

Law Enforcement Experience

Hooksett (NH) Police Dept.: 1972-73, auxiliary policeman. 1973-1980, fully sworn Police Officer. Duties under four chiefs included patrol, firearms training, community relations and crime prevention assignments, dept. firearms instructor for most of this period. Served in part time capacity with full police authority.

Deerfield (NH) Police Dept.: 1982-1990. Fully sworn officer, rank of Sergeant ('82-'84) in charge of all police training, and Lieutenant ('84-'90), in charge of police training and crime prevention activities. Served in part time capacity with full police authority.

Grantham (NH) Police Dept.: 1990-2017. Fully sworn Captain and Police Prosecutor, in charge of training, research, and other administrative functions. Served in part time capacity with full police authority.

References available upon request.

Massad Ayoob
PO Box 1477
Live Oak, FL 32064
(386) 688-1932

massadayoob@aol.com